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doctrine, refusing to find causation by the railroad where the surgeon performed a wholly unnecessary operation solely because of his failure to inform himself of the patient's identity. Consequently, liability for the mistaken operation rests on the surgeon alone. See *Snow v. N. Y. N. H. & H. R. R.* (1904) 185 Mass. 321, 70 N. E. 205; *Scheffer v. Washington City V. M. & G. S. R.* (1882) 105 U. S. 249, 26 L. ed. 1070. Clearly, the case is not one of joint or concurrent negligence, where a release to one tort-feasor operates as a release to all. See *Mooney v. Chicago* (1909) 238 Ill. 414, 88 N. E. 194; see also (1918) 28 YALE LAW JOURNAL, 90, on the effect of reserving rights against one of the wrongdoers; and see (1915) 24 *ibid.* 505. To the release to the railroad, therefore, the defendant stands a stranger; as where two adjoining owners overflow the plaintiff's land with sewage, a release to one is utterly foreign to the other and does not bar an action. *Western Tube Co. v. Zang* (1899) 85 Ill. App. 63. Even special payments by the railroad in consideration of the wrong caused by the new, independent wrongdoer, have been held no defense for the latter, although the amount paid may be set off. *Scherger v. Lincoln Traction Co.* (1912) 91 Neb. 407, 136 N. W. 62; *El Paso & S. R. R. v. Darr* (1906, Tex.) 93 S. W. 166; *Randall v. Gerrick* (1916) 93 Wash. 522, 155 Pac. 357.

TAXATION—STATE POWER TO TAX STOCKHOLDERS IN NATIONAL BANK—LIMITED WHEN BANK ALREADY TAXED AS A STOCKHOLDER IN ANOTHER NATIONAL BANK.—A national bank A, in California, owned stock in another national bank B, and in a state bank C, in that state. The Revised Statutes empower the states to tax stockholders in national banks, but at a rate no greater than is assessed upon other moneyed capital in the hands of individual citizens of the state. California taxed bank A as a stockholder in bank B and in bank C, and also taxed the stockholders of bank A on its entire assets, including in these taxable assets the value of the stock, already taxed, owned by bank A in banks B and C. *Held*, that the assessment of the stockholders of bank A on the amount already taxed on the bank as a stockholder in bank B, and the assessment of bank A as a stockholder in bank C were invalid. Pitney, Brandeis and Clarke, JJ., *dissenting*. *The Bank of California v. Richardson* (1919) 39 Sup. Ct. 165.

The power of the states to tax national banks and their stockholders is derived from and limited by federal statute. Rev. St. Sec. 5219; *Covington v. First Natl. Bank* (1904) 198 U. S. 100, 25 Sup. Ct. 562. The banks themselves as federal agencies are exempted from state burden by taxation, except as to their real estate; but the assets of stockholders in national banks are placed under the state taxing power, subject to a limitation prohibiting discrimination as against other moneyed capital. *Amoskeag Savings Bank v. Purdy* (1913) 231 U. S. 373, 393, 34 Sup. Ct. 114. The tax assessed on bank A as a stockholder in bank C, the state bank, being a tax on a federal agency, was unauthorized by the federal statute and was therefore void. *Owensboro Natl. Bank v. Owensboro* (1899) 173 U. S. 664, 19 Sup. Ct. 537. A tax on the stock held by one national bank in another national bank is valid under the grant of power to the states to tax stockholders in national banks. *National Bank of Redemption v. Boston* (1887) 125 U. S. 60, 8 Sup. Ct. 772. In disallowing the tax on the stockholders of bank A in so far as the assets thus taxed included the value of the stock already taxed on the bank as a stockholder in bank C, the court has adopted a new and enlightened policy of piercing the corporate veil to establish the ultimate beneficial interest of the stockholder. They therefore concluded that the double tax was a discrimination against a stockholder in a national bank, against which the federal statute was expressly designed to guard. The force of the common view that the corporation and the stockholders are entirely different entities, especially for purposes of taxation, is attested by Justice Pitney's vigorous dissent, supported by ample authority. See particularly *Owensboro Natl. Bank*

v. Owensboro, supra, and the cases there summarized, at pages 677-682. The fallacies involved in this common theory are exposed by the late Professor Hohfeld, *Nature of Stockholder's Individual Liability for Corporation Debts in* (1909) 9 COLUMBIA L. REV. 285, 288-291, note. The approval of the better view by the Supreme Court is encouraging. The present federal income tax follows this principle. But where there is no express limitation upon the taxing power, the states have not generally been denied this power to tax both the corporation and its stockholders.

TRADES UNIONS—CLOSED SHOP AGREEMENT—LIABILITY FOR PROCURING DISCHARGE OR PREVENTING EMPLOYMENT.—The defendant union and the shoe manufacturers of Lynn, Massachusetts, had come to an agreement which provided that none but union men should be employed. Because of the operation of this agreement, the plaintiff was unable to hold or secure employment. *Held*, that the plaintiff had no cause of complaint if the motives of the defendant in making the agreement were to secure all the work for the union and to enlarge and strengthen the union organization. *Shinsky v. O'Neil et al.* (1919, Mass.) 121 N. E. 790.

A workman has the right that others shall not combine to procure his discharge or prevent his employment unless special circumstances "justify" the interference. *Erdman v. Mitchell* (1903) 207 Pa. 79, 56 Atl. 327. That the workman is a non-union man does not in itself privilege a union to procure his discharge. *Smith v. Bowen* (1919, Mass.) 121 N. E. 814. But where the union is seeking to secure the work for its own members, its action does not render it liable to the man dismissed. *National Protective Assn. v. Cummings* (1902) 170 N. Y. 334, 63 N. E. 369. And so the instant case. But see *Lucke v. Clothing Cutters, etc.* (1893) 77 Md. 396, 26 Atl. 505. The existence of a closed shop agreement may or may not privilege the union's action as an attempt to enforce such agreement. It has been held, as in the principal case, that where the agreement itself is not against public policy, it is justification *per se*. *Jacobs v. Cohen* (1905) 183 N. Y. 207, 76 N. E. 5; *Hoban v. Dempsey* (1914) 217 Mass. 166, 104 N. E. 717, L. R. A. 1915A 1217, Ann. Cas. 1915C 810. But where the agreement affected the whole of an industry in any one locality, it has been held invalid and, therefore, no justification. *Curran v. Galen* (1897) 152 N. Y. 33, 46 N. E. 297; *Connors v. Connolly* (1913) 86 Conn. 641, 86 Atl. 600. There are cases in Massachusetts, however, which look behind the agreement, and decide that the union's conduct is actionable or not, according to the reason for which the agreement is invoked. *Berry v. Donovan* (1905) 188 Mass. 353, 74 N. E. 603, 5 L. R. A. (N. S.) 899, 3 Ann. Cas. 738 (invoked solely because plaintiff was non-union man); *Shinsky v. Tracey* (1917) 226 Mass. 21, 114 N. E. 957 (invoked to discipline plaintiff, a prior member of the union). Even the principal case intimates that if the agreement were being enforced for the sole end of forcing the defendant into the union, the action would not be privileged. But it is submitted that such a view in effect nullifies the closed shop contract, as between the union and the non-union men, and thereby deprives the union of one of its most effective means of gaining an end conceded to be lawful, the strengthening of its organization.

WORKMEN'S COMPENSATION—DISOBEDIENCE OF ORDERS—SCOPE OF THE EMPLOYMENT—SUNDAY EMPLOYMENT—ILLEGALITY OF CONTRACT.—The appellant had entered cars in an automobile race held on Sunday. The decedent, a mechanic regularly employed in the warehouse, was given charge of the pit on the track, with instructions not to leave the pit. He left the pit to go to one of appellant's cars which had stopped on the track, and was killed. *Held*, (1) that the injury arose "in the course of" the employment; and (2) that the illegality of the